

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No.13947 of 2004

Between:

Thota Uma Lakshmi @ A.Dhana Lakshmi, W/o.A.Venu Gopala Rao,
R/o.Eluru, West Godavari District.

..... PETITIONER

AND

- 1 The Lok Adalat, (Civil Cases) West Godavari District, Eluru.
- 2 Thotapally Venkata Suryanarayana, S/o.Sanyasi Rao,

Barbership, Navodaya Colony,
Mogalarajapuram, Vijayawada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate order or direction declaring that the condition No.2 of the terms of compromise of the award in O.P.No.69/2000 dt.3-2-2001 on the file of the Lok Adalath, Eluru, West Godavari District as illegal, contrary to law and consequently to direct the 2nd respondent to hand over custody of my daughter namely Naga Lalitha Siva Jyothi in the interest of her welfare.

Counsel for the Petitioner: Mr. K.CHIDAMBARAM

Counsel for the Respondents: None appears

The Court made the following :

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JUDGMENT:

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Filing of this petition by the erstwhile wife of the 2nd respondent to issue a Writ of Mandamus to declare condition No.2 of the terms of compromise rendered in Award dated 3-2-2001 in O.P.No.69 of 2000 on the file of Lok Adalat, Eluru, West Godavari District as illegal and contrary to law, is wholly misconceived.

It is not in dispute that the petitioner and 2nd respondent could not be lived together in their married life and they agreed to part with, for which purpose, O.P.No.69 of 2000 was preferred praying for decree of divorce under Section 13B of the Hindu Marriage Act, 1955. Marriage between the parties was dissolved by Award dated 3-2-2001 passed by Lok Adalat. The terms of compromise between the parties *inter alia* provide that as per the agreement, the husband was given care and custody of children. He has to grow up them and to keep the petitioner herein informed relating to the children and the petitioner herein is also given visiting rights.

Now, the petitioner's sole grievance is that she wants custody of the children. In case that be the position, filing of writ petition and to seek condition No.2 of the terms

of compromise as illegal, as observed by us, is not the appropriate remedy. Remedy availed of is totally misconceived. Petitioner has to file appropriate application or move appropriate Court for modification of the order and thereby to pray for giving her custody of children.

Leave and liberty granted to the petitioner, the writ petition is dismissed. No costs.

(DEVINDER GUPTA, CJ)

August 12, 2004

(C.V. RAMULU,J)

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

- 1 The Lok Adalat, (Civil Cases) West Godavari District, Eluru.
2. 2CD copies